SINGAPORE REPORTS.

WEE BOO SOH v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J.) May 13, 1947]

Criminal Procedure Code, Section 117 and 124—Statements made in the course of a Police investigation cannot be given in evidence to corroborate the evidence of a witness—whether person paying money to a Police Officer under a threat is an accomplice—Evidence Ordinance, Section 157—Penal Code, Section 384.

In this case the accused was charged with extortion under Section 384 of the Penal Code. In the course of the hearing a Police Officer gave evidence of statements made by a witness apparently to corroborate the evidence within the meaning of Section 157 of the Evidence Ordinance. The learned District Judge convicted the accused who appealed against this conviction. In his grounds of judgment, the learned District Judge said that by paying the money under threat the complainant did not become an accomplice.

Held, (1) that as the statements in this case were made in the course of a police investigation they were inadmissible because of Section 124 of the Criminal Procedure Code and therefore they could not be used to corroborate the evidence of a witness under Section 157 of the Evidence Ordinance;

(2) that a person who gives money to a policeman in order to cause him to fail in his duties is guilty of a criminal offence and this is so even if the first suggestion is from the policeman and that therefore the complainant in this case was an accomplice within the meaning of the Evidence Ordinance;

(3) that as the admission of the statement did not influence the learned District Judge in coming to his decision and as there was ample corroboration of the evidence of the complainant in this case, the conviction must be upheld.

Case referred to :—

(1) *Emperor v. Akbar Badoo* I.L.R. 34 Bom. 599.

MAGISTRATE'S APPEAL.

Wilson for the Appellant.

C. H. Butterfield for the Respondent.

Murray-Aynsley, C. J. :—In this case the appellant was charged with extortion under section 384 of the Penal Code and convicted.

He now appeals. Numerous grounds of appeal were put forward in the petition of appeal; others appeared in the course of the argument.

The facts are that the appellant was a detective in the Singapore Police and that he demanded money from the complainant, according to the complainant, as the price for not taking action in respect of the gambling activities of the complainant, according to the appellant, the return of a loan made during the Japanese occupation. That was a question of fact and the learned District Judge certainly had materials on which to convict, but examination of the record reveals certain matters which need consideration.

In the first place, in the course of the hearing an officer of the Police gave evidence of statements made by the witness apparently to corroborate the evidence within the meaning of s. 157 of the Evidnence Ordinance. But I think that in criminal matters the use of this section is subject to the restrictions of s. 124 of the Criminal Procedure Code. To be admissible such statements must be made either at or about the time when the fact took place or before any authority legally competent to investigate. Here the statements were not made at or about the time when the events took place. They must, to be admissible, have been made in the course of an investigation. They were not admissible under s. 117 Criminal Procedure Code. Therefore they fall within the prohibition of s. 124 Criminal Procedure Code. If authority is needed for this it is to be found in *Emperor v. Akbar Badoo*[1].

Secondly, in his grounds of judgment the learned District Judge said "By paying money under this threat he did not become an accomplice". This raises a difficult question. A person who gives money to a policeman in order to cause him to fail in his duty is guilty of a criminal offence and this is so even if the first suggestion comes from the policeman. I think that the complainant was therefore an accomplice within the meaning of the Evidence Ordinance.

It remains to be seen whether either of these matters is such as to vitiate the conviction. As regards the first, after giving the matter very careful consideration, I do not think that the admission of the evidence in question could have influenced the learned District Judge in coming to his decision. As regards the second, in view of the fact that there is ample corroboration, I do not think that the view that the Judge took as to whether the complainant was an accomplice or not can be regarded as being of decisive importance.

The sentence is in no way excessive. The appeal must be dismissed.

Appeal Dismissed.